

BROKERS' CURRICULUM

SECTION ONE: INTRODUCTION AND BACKGROUND

I. INTRODUCTION TO THE WORLD OF REAL ESTATE

II. THE NATIONAL REAL ESTATE INDUSTRY

A. The Real Estate Business

- 1) Identify Real Estate Career Opportunities.
- 2) Identify names of major professional real estate organizations. Provide a list of them and their designations.
- 3) Distinguish between real estate regulatory agencies and professional trade organizations.
 - (a) Regulatory agencies impose mandatory requirements that must be met to obtain and maintain a license.
 - (b) Professional organizations are voluntary trade groups developing, maintaining and promulgating standards. This promotes professionalism.
 - (c) Compliance with regulation is mandatory while membership in professional organizations is voluntary and does not prevent a professional career.

4) Sources of Information

- (a) State Agencies
- (b) County Agencies
- (c) Federal Agencies
- (d) Other
 - (1) Professional organizations

III. THE NATIONAL REAL ESTATE MARKET

- A. Provide an overview of the areas and extent of the United States real estate market.

IV. HISTORY OF HAWAIIAN REAL ESTATE

- A. Provide a discussion of the feudal and allodial systems.
- B. Discuss the role of land in the kingdom.
- C. Discuss the Great Mahele.
- D. Discuss the evolution of land court and the regular system.

V. THE REAL ESTATE INDUSTRY IN HAWAII

- A. Discuss composition of the real estate industry in Hawaii.
- B. Provide an overview of the economic impact of various elements of the real estate industry in Hawaii.

VI. THE REAL ESTATE MARKET IN HAWAII

- A. Discuss the interaction of supply and demand in an island economy.
- B. Review fluctuations in market segments over time ~ i.e. how does timing affect market.
- C. What is the impact of location on the market?
- D. Real Estate Economics
 - 1) Discuss implications of real estate in an island economy. Note the implications of an economy based on the visitor industry.
 - 2) Identify the factors that affect the supply and demand of real estate.
 - 3) Define and give examples of economic value and market value.
 - 4) Describe the characteristics of the real estate market.
 - 5) Describe the real estate cycle in Hawaii and determine the position of the current local real estate market in this cycle.
 - 6) Help understand that the real estate market in Hawaii is different on each island.

SECTION TWO: REAL ESTATE LICENSING LAWS

I. REASONS FOR LICENSING REAL ESTATE PROFESSIONALS

- A. Discuss consumer protection.
- B. Discuss professionalism and ethics.
 - 1) Hawaii Law as well as the Rules and Regulations require ethical conduct. Give examples.
 - 2) Ethical standards are higher than legal standards.

II. HAWAII LICENSING LAWS

- A. Hawaii State Law includes Statutes and Administrative rules. (Copies of pertinent provisions should be provided to students.)
 - 1) HRS 436B: Uniform Professional and Vocational Licensing Act.
 - 2) HRS 467 Real Estate Brokers and Salespersons.
 - 3) Title 16 – DCCA, Chapter 99: Hawaii Admin. Rules – Real Estate Brokers & Sales Persons.
- B. Differentiate between:
 - 1) Real Estate Commission (REC)
 - 2) Regulated Industries Complaints Office (RICO)
 - 3) Department of Commerce and Consumer Affairs (DCCA)
 - 4) Describe responsibilities and authority of each of these entities.
- C. HRS 436B. Uniform Professional and Vocational Licensing Act
 - 1) Covers all professionals licensed by State under DCCA.
 - 2) Section 436B-19 – Grounds for suspension, termination or revocation of license. Subsection (6) Aiding & Abetting Unlicensed Activity (whether directly or indirectly).
- D. HRS 467. Real Estate Brokers and Salespersons
 - 1) Key Definitions:
 - (a) Real Estate Broker
 - (b) Real Estate Salesperson
 - (c) Principal Broker
 - (d) Broker-in-Charge
 - 2) Describe general license requirements for salespersons and brokers. Note: Real estate schools and instructors are regulated too. In addition there are license requirements for Condominium Hotel Operators (CHO). Describe penalty for acting as broker or salesperson without a license.
 - (a) License Eligibility Requirements:
 - (1) Experience
 - (2) Education
 - (3) Residency
 - (4) Age
 - (b) License Certification Requirements:
 - (1) written examination
 - (2) equivalency
 - (3) certificate of experience
 - (4) character and reputation
 - 3) What activities require a license and what activities do not require a license?
 - 4) What are the power and duties of the REC?
 - 5) Describe license application and procedures.
 - 6) Define “place of business.”
 - 7) Analyze HRS 467-14 “Revocation and Suspension of License.”
 - (a) Misrepresentation
 - (b) Improper Dual representation
 - (c) Violating Rules and Regulations
 - (d) Commingling
 - (e) Failing to ascertain and disclose material facts
 - (f) Duration of revocation or suspension

- 8) Describe general ethical considerations and industry standards.
 - 9) Discuss “standards of care” in the Real Estate Industry.
 - (a) What are they?
 - (b) Why do we have them?
 - (c) Who is responsible for them?
 - 10) Describe procedures for disciplinary actions. Include a discussion of the role of the RICO.
 - 11) Describe how the real estate recovery fund operates.
- E. Real estate rules and regulations in Title 16 Chapter 99 should be discussed in detail after basic concepts are discussed so that the relevancy of the rules can be established.

SECTION THREE: NATURE AND DESCRIPTION OF REAL ESTATE

I. PROPERTY DESCRIPTION AND CHARACTERISTICS

- A. Describe and give examples of land, real estate, real property, and personal property.
- B. Explain the factors which determine whether or not something is land, real estate, real property or personal property.
- C. Describe the physical, economic, and use characteristics of real estate.
- D. Describe air rights, surface rights, and subsurface rights as well as various elements such as gas, oil, mineral, geothermal, trees, and crops.
- E. Describe fixtures.
- F. Describe Trade Fixtures.
 - 1) Identify the criteria established for determining whether or not an object is a fixture.
- G. Describe water rights, including riparian rights and littoral rights.
- H. Describe the legal right (bundle of rights) that attach to the ownership of real property.
- I. Explain private property rights versus public and private controls.
- J. Differentiate between the methods of describing real property and a “Legal Description” of real property used in Hawaii.
 - 1) Tax Map Key (TMK)
 - 2) Street Address
- K. Explain the three methods used to generate a legal description of real property and differentiate between them:
 - 1) Government Survey System
 - 2) Plat and Parcel
 - 3) Metes & Bounds
- L. Discuss boundary line problems in special situations such as ocean boundaries, Hawaiian fish ponds, and kuleanas.
- M. Explain Surveys and Encroachments
 - 1) Discuss new surveying technology and reasons for “De Minimus Encroachment” law.
 - 2) Discuss Encroachment Agreement and necessity and importance of having an Encroachment Agreement.
- N. Explain how condominiums are described.
- O. Sale of Business opportunities and interests: explain how the Uniform Commercial Code provides for a lender to take a security interest in personal property in a sale of a business. Discuss sales of business opportunities in the following areas:
 - 1) residential
 - 2) commercial
 - 3) industrial
 - 4) agricultural
 - 5) special purposes
 - 6) public

SECTION FOUR: THE LAW AND REAL PROPERTY

I. REAL PROPERTY INTERESTS

- A. Describe the historical evolution of the feudal system to the allodial system of private ownership.
- B. Discuss the implications of Hawaiian history on the present use of land.
 - 1) Before the Great Mahele
 - (a) Describe land divisions:
 - (1) moku puni
 - (2) moku
 - (3) ahupua'a
 - (4) ili
 - (5) lele
 - (6) mo'o
 - (7) kuleana
 - 2) The Great Mahele -- In 1848 converted crown lands to government lands.
 - (a) Royal Patent
 - (b) Land Patent
 - (c) Kamehameha deeds
 - 3) Distribution of land (kuleanas) in 1850 to commoners
 - (a) Note some kuleanas exist today.
 - 4) The leasehold system and the Land Reform Act of 1967
 - (a) Leasehold Conversion
 - (b) Hawaii Supreme Court Decision (1984)
- C. Describe Government limitation on ownership of real estate.
- D. Describe the two major classifications of estates in land – freehold and leasehold.
- E. Define the freehold estates of fee simple, determinable fee, and fee simple subject to a condition subsequent.
- F. Describe a life estate.
- G. Explain the difference between a remainder interest and a reversionary interest.
- H. Describe legal life estates and give examples of curtesy, dower, homestead, and community property.
- I. Define and explain leasehold estates in Hawaii.
 - 1) Lessors/Lesseees
 - 2) Rent renegotiations
 - 3) Surrender clause
 - 4) Other important terms
 - 5) Disclosure requirements
 - 6) Land Reform Act of 1967
 - (a) Single family home
 - (b) Non-applicability to condominiums and co-ops
 - (c) Ethical issues regarding attempts to circumvent the law
 - 7) Discuss leasehold conversion and the impact of city and county law, e.g. leasehold conversion in the county of Oahu

SECTION FIVE: ENCUMBRANCES AND LIENS, EASEMENTS

I. ENCUMBRANCES

- A. Differentiate between physical and financial encumbrances as well as voluntary and involuntary liens.
- B. Define lien.
- C. Describe and give examples of the following liens:
 - 1) voluntary
 - 2) involuntary
 - 3) statutory
 - 4) equitable
 - 5) general
 - 6) specific
- D. Describe and explain the effects of a lien as an encumbrance on title to real property.
 - 1) Describe a mortgage lien.
 - 2) Explain the basis and general operation of the mechanic's lien.
 - 3) Describe property tax liens and assessments.
 - 4) Explain how a judgment can be entered and executed against a property.
 - 5) Identify the types of liens and describe their effect on title.
- E. Describe the priority of liens.
- F. Define and give examples of a deed restriction.

II. EASEMENTS

- A. Define an easement including an easement appurtenant and an easement in gross.
- B. Describe how easements may be created, including mutual agreement, necessity, prescription, condemnation, and implication.
- C. Describe how easements may be terminated.
- D. Define and give an example of a license (e.g. temporary right to occupy space).
- E. Define and give examples of an encroachment.
 - 1) Describe de minimus encroachment and reasons for it.
- F. Explain rights to beach access and other entry rights.
- G. Discuss PASH (Public Access to Shorelines) in Hawaii and its potential impact on undeveloped or raw land.

III. STATUTORY RESERVATIONS ON LAND

SECTION SIX: REAL ESTATE AND OTHER TAXES, TAX LIENS

I. REAL ESTATE TAXES AND REPORTING REQUIREMENTS

- A. Explain Local Property Taxes.
 - 1) assessment on land
 - 2) assessment on improvement
 - 3) exemptions
 - 4) dedications (agriculture and residential)
 - 5) how taxes are calculated
- B. Define "special assessment."
- C. Describe the procedures for appealing tax assessments and enforcement of tax liens.
- D. Other taxes:
 - 1) General Excise Tax
 - 2) Transient Accommodations Tax
 - 3) Conveyance Tax
- E. Describe who must withhold funds pursuant to the Foreign Investment in Real Property Tax Act (FIRPTA).
- F. Describe who must withhold funds pursuant to the Hawaii Real Property Tax Act (HARPTA).

- G. Explain how federal reporting requirements impact foreign buyers and sellers.
 - 1) The International Investment and Trade in Services Survey
 - 2) Agricultural Foreign Investment Disclosure Act of 1978
 - 3) The Currency and Foreign Transactions Reporting Act of 1970
- H. Help understand basic Income Tax Concepts
 - 1) Depreciation
 - 2) Permitted Deductions for different classes of property
 - 3) Tax Deferral methods:
 - (a) 1031 "tax free" exchanges
 - (b) Sale of primary residence
 - (c) Other
 - 4) Estate taxes
 - (a) Discuss impact of state and federal inheritance tax and the need for planning.
- I. Impact of the "Taxpayer's Relief Act of 1997"

SECTION SEVEN: TENANCY AND OWNERSHIP OF REAL ESTATE

I. FORMS OF OWNERSHIP/TENANCY

- A. Define Ownership in severalty (individual)
- B. Define other forms of co-ownership including:
 - 1) community property
 - 2) joint tenancy
 - 3) tenancy by the entirety
 - 4) tenancy in common
 - 5) dower and curtesy
 - 6) land trusts
 - 7) elective right (Uniform Probate Code 7/1/77)
- C. Define business or group ownership.
 - 1) Partnerships
 - 2) Joint Ventures
 - 3) Corporations
 - 4) Cooperatives (co-ops)
 - 5) Condominiums (condos)
 - 6) Syndications (huis)
 - 7) Real Estate Investment Trusts (REITs)
- D. Explain tax advantages and disadvantages of types of ownership and differentiate types and forms of tenancy.

II. TRANSFER OF OWNERSHIP

- A. Describe how ownership of property is transferred:
 - 1) Land sale – during lifetime
 - 2) Public grant
 - 3) Private grant
 - 4) Authority of Law (Descent)
 - 5) Wills
 - 6) Authority of Law
 - (a) Lien Enforcement
 - (b) Adverse Possession
 - 7) Dower and Curtsey
 - 8) Elective Share (Uniform Probate Code)
- B. Describe how property associated with drug activity or other illegal activities is subject to seizure and forfeiture (Federal and Hawaii Laws).

SECTION EIGHT: CONDOMINIUMS, COOPERATIVES, PLANNED UNIT DEVELOPMENTS AND TIMESHARE

I. CONDOMINIUMS

- A. Explain Hawaii Revised Statutes 514A Condominium Property Regime (CPR) and review text of Statute and its major components.
- 1) General Provisions, Definitions, and Applicability
 - 2) Creation, Alteration, and Termination of a Condominium
 - (a) At what point is a Condominium Created?
 - 3) Registration, Administration, Notification of Intention
 - (a) Role and responsibility of the Developer
 - (b) Role of the County and the State
 - (c) Limited Role of the REC
 - (d) Public Reports, preliminary, interim, final and supplementary
 - (e) At what point may units be marketed??
 - (f) When must sales activities be stopped?
 - (g) Penalties for violation and limitations of action
 - 4) Protection of Purchasers
 - (a) Disclosure requirements
 - (b) Condominium Conversions
 - (c) Right to cancel contract
 - (d) Retention of records-- where and how long?
 - (e) Rescission rights
 - (f) Presales during construction and before completion
 - (g) Remedies, sales voidable-- when and by whom?
 - 5) Condominium Management and Governance
 - (a) By Laws and their contents
 - (b) Budgets and reserves
 - (c) Association Management and developer relationships
 - (d) Availability of project documents
 - (e) Maintenance, examination, storage and disposal of records
 - (f) Financial statements and audits
 - 6) Sale to owner occupants
 - 7) Arbitration and Mediation
 - 8) Rules and Regulations and how they affect the administration of the Law
- B. When going through the Law, provide details and explanations of the following:
- 1) Know that the CPR is under Section 514A and explain the difference between a condominium and a cooperative.
 - 2) Explain the basic definitions in the law.
 - 3) Explain what is in a declaration, by-laws, and house rules.
 - 4) Describe what is in a public report and explain condominium disclosure requirements and buyer rights to cancel.
 - 5) Describe the role of a Condominium Owner's Association and differentiate between that and a Community Association.
 - 6) Explain what documents must be maintained by an Association.
 - 7) Help understand the duties of officers and members of the Board of Directors.
 - 8) Describe the basic rules on condominium budgets and reserves.
 - 9) Explain the role and duties of managing agents.
 - 10) Touch upon the rules of sales to owner-occupants: 514A Part VI, 101, 102 and 103 developer's requirement to offer half of new residential apartments to owner occupant for first thirty days.
 - 11) Describe the right of first refusal when a leased fee is offered for sale.
 - 12) Explain the arbitration and disputes procedure.
 - 13) Note that there is a condo education fund and that information can be obtained from the commission's "condominium specialist."

- C. Explain that all of HRS 514A is presently being re-codified and the structure of this section must be modified to reflect the impact of both the old law and on the re-codified law on various properties including smaller projects which may be exempt.

II. COOPERATIVES

- A. Ownership of shares in a corporation
- B. Proprietary lease
 - 1) Expiration date
 - 2) No expiration date

III. TIMESHARE (514E)

- A. Describe time-sharing plans and how these are regulated.
 - 1) Definition
 - 2) Ownership interests
 - 3) Right to use
 - 4) Registration of a Timeshare project is separate from a CPR registration.
 - 5) Condominium Public Report is not required.
 - 6) Sales disclosure requirements
 - (a) Seven day right of rescission
 - 7) Sales voidable-- when and by whom?
 - (a) Refund money with interest at ten percent (10%) per year together with taxable court costs and reasonable attorney's fees.
 - 8) Penalty for violation.
- B. Discuss the impact (good and bad) of the timeshare industry in an island economy.

- IV. PLANNED UNIT DEVELOPMENTS. Discuss reasons for planned housing development and the role of the State, the Housing Finance Development Corporation, and the Developer.

SECTION NINE: INTERESTS IN REAL ESTATE

I. DEEDS AND OTHER MEANS OF ACQUIRING PROPERTY

- A. Define "title."
- B. Define the methods of transferring title.
- C. Identify ways in which title to real property may pass involuntarily.
- D. List and explain the essential requirements of a valid conveyance.
- E. Identify and describe types of deeds.
 - 1) General Warranty Deed.
 - (a) Covenant of seisin
 - (b) Covenant against encumbrances
 - (c) Covenant of quiet enjoyment
 - (d) Covenant of further assurance
 - (e) Warranty forever
 - 2) Special Warranty Deed
 - 3) Quit Claim Deed
 - 4) Gift Deed
 - 5) Executor's Deed
 - 6) Commissioner's Deed in foreclosure
 - 7) Commissioner's Deed in partition
 - 8) Administrator's Deed
 - 9) Guardian's Deed
 - 10) Trustee's Deed.
 - 11) Release of dower
 - 12) Bargain and sale deed

- F. Describe the elements of a deed.
 - 1) Written Instrument
 - 2) Date
 - 3) Legal Capacity of Grantor
 - 4) Grantee
 - 5) Recital of consideration
 - 6) Words of conveyance
 - 7) Habendum clause
 - 8) Legal Description of Property
 - 9) Reservations and exceptions
 - 10) Warranties and covenants
 - 11) Grantor's signature
 - 12) Delivery and acceptance
 - 13) Acknowledgement
 - 14) Recordation
 - (a) Bureau of Conveyances
 - (b) Land Court
 - (c) Constructive notice vs. actual notice
- G. Describe assignment of leases.
- H. Explain why covenants and conditions in a deed cannot be used as a means of discrimination.

II. CONCEPTS OF HOME OWNERSHIP – THE AMERICAN DREAM

- A. Explain tax advantages and disadvantages of home ownership.

III. INVESTMENTS IN REAL ESTATE

- A. Differentiate between home ownership and purchase for investment.

IV. TITLE AND TRANSFER OF TITLE

- A. Discuss recordation of title.
 - 1) Land Court—its history and process
 - 2) Regular System – its history and process

V. TITLE RECORDS

- A. Indicate where they can be found.

SECTION TEN: REAL ESTATE BROKERAGE ADMINISTRATION

I. PRINCIPAL BROKER RELATIONSHIP: EMPLOYMENT

- A. Discuss the State Government initiative to “Slice Waste and Tape” (SWAT) and its impact upon the responsibilities of Principal Brokers and Brokers-In-Charge as set forth in HRS 467 and the Rules and Regulations.
- B. Provide detailed discussion of Principal Broker and Broker-In-Charge responsibilities set forth in HRS 467-1.6 and the Rules and Regulations.
 - 1) PB must have direct management and supervision of firm and all licensees.
 - 2) PB is responsible for:
 - (a) Trust Accounts
 - (1) Disbursements
 - (2) Accounting practices
 - (3) Others may deposit
 - (b) Firms records, contracts and documents
 - (c) All real estate contracts
 - (d) All licensing matters regarding firm and firm's licensees

- (e) License status of firm and associates at all times
 - (f) Brokerage firm policies and procedures
 - (1) Development
 - (2) Promulgation, training, and education
 - (3) Conduct and enforcement
 - (g) Continuing education of licensees
 - (h) Training programs for all licensees
 - (i) Ensuring that firm and all licensees are kept up to date regarding all laws and rules
- 3) Responsibilities may be delegated to Broker-In-Charge.
 - 4) Rules and Regulations
 - (a) Review changes to Chapter 99 as a result of SWAT.

II. PRINCIPAL BROKER RELATIONSHIP: AGENCY

- A. Discuss agency relationship to firm, not to individual.
 - 1) Relate agency discussion to general agency issues in uniform section of curriculum.
 - 2) Discuss dual agency requirement for written notice prior to writing contract or implied or ostensible agency relationship.

III. BROKERAGE

- A. Forms of business organization
 - 1) proprietorship
 - 2) partnership
 - 3) corporation
 - 4) franchise
 - 5) Limited Liability Corporation (LLC)
 - 6) Limited Liability Partnership (LLP)
 - 7) Foreign Corporation doing business in Hawaii
 - 8) Review merits, advantages, and disadvantages of each form of organization.
 - 9) Discuss how one registers Trade Names and Business Entity with State of Hawaii Business Registration Division.
- B. Office personnel
 - 1) clerical staff
 - 2) employee vs. independent contractor
 - 3) personnel supervision
 - (a) sales meetings
 - (b) training programs
 - (c) personal motivation
 - (d) recognition
- C. Office policies and procedures manual
 - 1) Discuss PB/BIC responsibility for creation of manual as well as training, monitoring use, and maintenance.
 - 2) Review purpose of policy and procedure manual and its role in risk management for Brokerage.
 - 3) Review suggested content of policy and procedure manual.
- D. Conduct and Ethics in a Brokerage Environment.
 - 1) Ethical standards are higher than legal standards.
 - 2) The Broker's role in establishing and maintaining these standards.
- E. Financial records
 - 1) maintains records
 - 2) client trust accounts: requirements and timely maintenance and reporting
 - 3) requirement for complete "accounting"
 - 4) contract compliance
 - 5) transaction records -- discuss importance
 - 6) retention period for records -- discuss

- F. Errors & Omissions Insurance.
 - 1) Review importance of Risk Management.
 - 2) Review Importance of Errors and Omissions Insurance.
- G. Disclosures -- Brokers should understand lender's responsibilities.
 - 1) RESPA disclosures – compliance
 - (a) Discuss HUD-1 Statement.
 - 2) TIL Act (Regulation Z) disclosures – compliance
 - (a) Note impact of Regulation Z on advertising
- H. Property disclosures (508D)
 - 1) Mandatory time
 - 2) Material fact
- I. Client relationship responsibilities
 - 1) calculates/estimates closing costs
 - 2) explains the need for title research, etc.
 - 3) explains rights of parties
 - 4) explains rights to legal counsel
 - 5) maintains relationships with and promotes use of other professionals and specialists who play roles in real estate transactions
- J. Marketing and Advertising of Property
 - 1) Legal requirements for
 - (a) Properties for Sale
 - (b) Properties for Rent
 - (c) Properties owned by licensee or in which licensee has a beneficial interest
 - 2) What constitutes “Advertising”?
 - 3) Discuss advertising on the web and other technology-based advertising.
 - (a) Internet Data Exchange (IDX)
 - (b) Virtual Office Website (VOW)
 - (c) Company website
 - (1) Agent website
 - (2) Copyright laws
 - (d) Do not call/fax
 - (e) Referral fees
 - 4) Refer to REC publication on Guidelines for Advertising.
- K. Mediation/Arbitration/Litigation
 - 1) Discuss pros and cons
 - 2) Professional requirements
 - 3) State and national guidelines
 - 4) Discuss impact of Uniform Arbitration Act (Effective July 1, 2002).
- L. Emerging Issues
 - 1) Electronic or digitized files
 - 2) Electronic communication and proper documentation
 - 3) Broker supervision of internet activities
 - 4) Sexual harassment in a digital environment
- M. Management of Files, contracts and preparation of forms
 - 1) Discuss how contract preparation, review, and file management is important and relates to Brokerage risk management.

SECTION ELEVEN: AGENCY

I. GENERAL AGENCY CONCEPTS

- A. Define agency and fiduciary relationships.
 - 1) Explain the responsibility of brokers for actions of agents even if they are acting as “independent contractors.”
 - 2) Define who a “principal” is. Show the difference between a “client” and a “customer.”
 - 3) Describe the different classifications of agency relationships – universal, general, and special.

II. HAWAII AGENCY PRACTICES AND LAW

- A. Statutory vs. Common Law “Hawaii agency is presently common law.”

III. LAW OF AGENCY

- A. Describe that agency can be created to carry out functions such as:
 - 1) Sales
 - 2) Trades/Exchanges
 - 3) Leasing
 - 4) Management
- B. Real Estate Conduct Rules, Section 16-99-3
- C. Describe the creation of an agency relationship.
 - 1) Mention sub-agency and note that it is legal but not part of current industry practices.
 - 2) Define single agency.
 - (a) Seller agency
 - (b) Buyer agency
 - 3) Dual agency
 - (a) Separate written agreement required
 - (b) Discuss “informed consent.”
 - 4) Show how agency can be created accidentally.
 - 5) Forms of agency/non-agency used in other states:
 - (a) Designated agency
 - (b) Transactional agency
 - (c) Facilitator
- D. Discuss agency disclosure requirements under HRS Section 467-14(12) and under Section 16-99-3.1.
 - 1) Written disclosures
 - (a) Disclosure letters to buyers and sellers
 - (b) Paragraph is standard form DROA
 - (c) Agency disclosure addenda
 - 2) Help understand common agency disclosure situations
 - 3) Handling in-house sale
- E. Describe the authority, duties, and responsibilities of a real estate agent.
 - 1) Describe the difference between the seller as principal and the buyer as principal.
 - 2) Describe the agent’s duties to third persons.
- F. Describe the duties and consequences of breach of duties.
 - 1) Describe “fiduciary” and discuss duties.
 - (a) A sacred relationship of responsibility to others
 - 2) Agent
 - (a) Reasonable skill and care (note: This includes duties to ascertain and disclose material facts.)
 - (b) Accounting
 - (c) Loyalty
 - (d) Acting with authority

- 3) Principal
 - (a) Give opportunity to perform
 - (b) Do not capriciously terminate employment
 - (c) Compensation
 - (d) Cannot give illegal instructions

SECTION TWELVE: LISTING AGREEMENTS AND BUYER REPRESENTATION

- I. LISTING CREATES A SALES AGENCY.
- II. BUYERS REPRESENTATION AGREEMENTS CREATE AN AGENCY RELATIONSHIP.

SECTION THIRTEEN: STANDARD OF ETHICAL PRACTICE IN REAL ESTATE

- I. ETHICS AND REAL ESTATE REGULATIONS
 - A. Real estate licensing rules are found in Hawaii Administrative Rules, Title 16, Chapter 99, Real Estate Brokers and Salespersons.
 - B. Analyze major provisions in Section 16-99-3 – Conduct. Discuss the spirit and intent of these rules. Give examples of how some of the major conduct provisions are violated.
 - C. Review the intent of the agency disclosure rules (Note that a complete discussion of these rules should be made in conjunction with a discussion of agency itself).
 - D. Review trust accounts and handling of client funds.
 - E. Explain advertising rules.
 - F. Explain direct management and supervision of real estate activities.
 - G. Review NAR Code of Ethics or other code of ethics of a professional real estate association.
 - H. HRS 436B-19 (9): License may be sanctioned for failure to follow ethical standards of practice.

SECTION FOURTEEN: REAL ESTATE CONTRACTS

- I. LAW OF CONTRACTS
 - A. Define the essential elements of a contract.
 - 1) Mutual Agreement
 - 2) Competent parties
 - 3) Offer and acceptance
 - 4) Consideration
 - 5) Contractual ability
 - 6) Legal purpose
 - 7) Description of property
 - 8) Signatures
 - 9) Settlement date
 - B. Examples of real estate contracts, listings
 - C. Help understand key definitions.
 - 1) Describe the difference between an express contract (both written and oral) and an implied contract.
 - 2) Describe the difference between a bilateral contract and a unilateral contract.
 - 3) Explain the difference between a contract being executory and executed.
 - 4) Define and give examples of the legal status of contracts – valid, void, voidable, and unenforceable.
 - D. Describe the manner in which a contract can be terminated.
 - E. Define assignment and novation – explain the difference between assignment and novation.
 - F. Explain the remedies when a breach of contract occurs.
 - G. Define Statute of Frauds.

- H. Explain how antitrust laws affect the real estate broker and the penalties for violating them.
 - 1) Price fixing
 - 2) Group boycotting

II. LISTING CONTRACTS

- A. Define and describe the purpose of a listing contract.
 - 1) Describe the types of listing contracts.
 - (a) Net
 - (b) Open
 - (c) Exclusive Agency
 - (d) Exclusive Right-to-Sell
 - 2) Describe the Role of Multiple Listing Service (MLS) arrangements.
 - 3) Describe the common provisions in a listing contract.
 - 4) Describe the broker's entitlement to a commission.
 - 5) Describe the ways in which a listing contract may be terminated.
 - 6) Describe the remedies for breach of a listing contract.
 - 7) Indicate pitfalls in listing preparation.
 - (a) What generally needs to be disclosed?
 - (b) What are the salesperson's liabilities?
 - (c) How to ask about conditions
 - (d) How to check for encroachments
 - (e) Other material facts that must be ascertained including whether seller falls under HARPTA and/or FIRPTA

III. SALES CONTRACTS

- A. Define and describe the purpose of the sales contract.
 - 1) Describe the key provisions in a sales contract.
 - 2) Describe the ways in which a sales contract may be terminated.
 - 3) Describe the remedies for breach of a sales contract.
- B. Discuss the significance of contingencies.
- C. Define and give examples of option agreements.
- D. Define and give examples of agreements of sale.
- E. Define and give examples of lease agreements.
- F. Discuss the matter of unauthorized practice of law.
- G. Describe the procedure for presenting multiple offers to a seller.

SECTION FIFTEEN: HAWAII STANDARD FORMS

I. DETAILED LIST OF ALL STANDARD FORMS AVAILABLE

- A. Broker candidates should have general familiarity with all HAR industry standard forms and specific operational familiarity with those marked with an asterisk (*). Curriculum should provide current copies of forms.
- B. The DROA – Deposit Receipt, Offer and Acceptance- is the Hawaii Association of REALTORS® standard form. Instructors should note that this is one of many acceptable forms of contract currently used. Discuss benefits of standardization of forms.

II. HAWAII ASSOCIATION OF REALTORS® INDUSTRY STANDARD FORMS

- A. Exclusive Right-to-Sell Listing Agreement (rr101)*
 - 1) MLS data input or profile sheet from the appropriate MLS
- B. Buyer Representation Agreement Exclusive Right-to-Represent (rr104)*
- C. Deposit, Receipt, Offer and Acceptance or DROA (rr201)*
- D. Counter Offer (rr204)*
- E. Cooperating Brokers' Separate Agreement (rr214)*

- F. Seller's Real Property Disclosure*
 - 1) Single Family Residence (rr102)
 - 2) Condo/Co-op/PUD (rr105 a,b,c)
 - 3) Vacant Land (rr106)
- G. Receipt of Real Property Disclosure/ Agreement to Substitution/ Acknowledgement of Waiver (rr107)
- H. DROA Addenda including:
 - 1) Lead Paint Disclosure
 - (a) Federal Brochure
 - (b) Seller's Disclosure
 - (c) Lessor's Disclosure
 - 2) Existing "As Is" Condition
 - 3) Plain Language (rr206)
 - 4) Purchase Money Mortgage (rr205)
 - 5) Agreement of Sale (rr203)
 - 6) Residential Leasehold Property (rr210)
 - 7) Residential Leasehold Property Disclosure (rr209)
 - 8) Receipt for Lease/Residential Leasehold Property Disclosure
 - 9) Action on Residential Leasehold Property Disclosure (rr212)
 - 10) Standard Oceanfront Property (rr220)
 - 11) Discuss other addenda, standard and otherwise, such as early occupancy and others firms might use, mold, volcano, etc.
- I. Written Notice to Escrow of Extension of Closing (rr207)
- J. Option Agreement Input Form (rr303)
- K. Residential Rental Forms
 - 1) Rental Agreement (rr301)*
 - 2) Property Condition Form (rr302)*
 - 3) Suggested Checklist for Vacating Tenants (rr304)
 - 4) Move Out/Closing Statement (rr403)
 - 5) Other forms
- L. Electronic Forms. Discuss availability, and sources of forms:
 - 1) Where are they available?
 - 2) Who supplies them?

III. LISTING CONTRACT

- A. Review key parts of Hawaii Association of REALTORS® Exclusive Right-To-Sell Listing Contract.
 - 1) Provide direction on how to complete.
 - 2) Discuss:
 - (a) Key terms
 - (b) Common practices
 - (c) Protection period
 - (d) Special terms
 - 3) All owners of record should sign.
- B. Discuss MLS data input.
 - 1) Note that data input is part of listing contract.
- C. Seller's Disclosure form
- D. Other disclosures

IV. WORKING WITH THE HAWAII ASSOCIATION OF REALTORS (HAR) FORM DEPOSIT RECEIPT, OFFER AND ACCEPTANCE (DROA)

- A. Help understand the basic DROA forms including standard terms and commonly used addenda (use latest forms).

- B. Be able to explain how funds, including deposits, will be handled in the event of default or cancellation.
- C. Go over how to complete the DROA
 - 1) Review key paragraphs
 - (a) Generally
 - (b) Specifically
 - (1) C-3 Financing
 - (2) C-21 Termination
 - (3) C-26 Contingencies
 - (4) C-44 – C-46 Disclosures
 - (5) C-51 Inspections
- D. Help understand what should be considered in making an offer.
 - 1) Financing options
 - 2) Closing costs
 - 3) Contingencies
 - 4) Recommendation of escrow company or lender
 - 5) Property boundaries
 - 6) Disclose any participation in sale
 - 7) Buyer's signature and date
 - 8) Relevant dates
 - (a) Closing date
 - (b) Occupancy date
 - (c) Pro-ration date
 - (d) Offer date
 - (e) Vesting of title
- E. Know standards of practice
 - 1) Review of offer by broker
 - 2) Copy of offer to buyer
 - 3) Moving with a sense of immediacy
 - (a) Present all offers to seller as a matter of top priority.
 - (b) Upon acceptance, promptly deliver to buyer for acknowledgement of acceptance.
 - (c) Rejections must be given in writing and in a timely manner.
 - (d) Counter-offers need not be within expiration period.
 - 4) Leave copies with buyer.
- F. Help understand how to make counter offers.
- G. Help understand what to do when there is an acceptance.
- H. Help understand what to do if there is a rejection (16-99: Rejection must be communicated in writing).
- I. Help understand how to use addenda.
- J. Help understand the necessity to remain familiar with standard forms which may change periodically.

V. COUNTER OFFER FORM

- A. Go over key points of counter offer and proper use of form.

VI. COOPERATING BROKERS STANDARD AGREEMENT (CBSA)

- A. CBSA is instructions to escrow.
- B. It is a contract; an agreement between brokers.

VII. OTHER NON-STANDARD FORMS: Letter of Intent (LOI) and others.

SECTION SIXTEEN: CLOSING THE REAL ESTATE TRANSACTION

- I. A **DROA** IS INSTRUCTIONS TO ESCROW.
 - A. DROA is “executory.”
 - B. Discuss key items to be “executed.”
 - C. Closing occurs when contract is fully executed.

- II. CLOSING/SETTLEMENT PROCEDURES
 - A. Describe process generally.
 - B. Review Hud-1 form
 - 1) Seller’s Statement
 - 2) Buyer’s Statement
 - C. Explain title examination procedures.
 - D. Explain the purpose for title insurance.
 - E. Describe the different types of title policies.
 - 1) Mortgagor’s and Mortgagee’s policies
 - 2) Standard ALTA policy
 - 3) Extended Coverage ALTA policy
 - 4) Other Extended Coverage Policies
 - F. Explain the chain of title.
 - G. Explain how the Uniform Commercial Code affects a real estate transfer.
 - H. Define title recordation.
 - 1) Regular registration – Bureau of Conveyances
 - 2) Land court registration process
 - I. Considerations at closing and settlement. (Note: This material reiterates previous sections.)
 - 1) Evidence of title
 - 2) Survey versus Staking
 - (a) De minimus encroachments
 - (1) Exceptions
 - (a) No de minimus in oceanfront
 - (b) No de minimus in state- and federal-owned property
 - 3) Closing costs and computation of closing costs
 - 4) Termite inspection
 - 5) Seller’s limited warranty
 - 6) Risk of loss and insurance
 - 7) Default
 - 8) Closing date
 - 9) Consent
 - 10) Time is of the essence
 - 11) Obligation
 - 12) Conflict
 - 13) MLS
 - 14) Complete agreement
 - 15) Occupancy date
 - 16) Pro-rations and computation of pro-rations
 - 17) Tenancy statement
 - 18) Satisfaction of contingency or waiver
 - 19) Special provisions
 - (a) General
 - (b) Agreement of Sale
 - 20) Agreement to buy
 - 21) Acceptance
 - (a) Brokerage fee agreement
 - (b) Counter Offer change requires acknowledgement

- 22) Funds held in escrow after closing by agreement of parties (150%)
 - (a) Estimates
 - (b) Release
- J. Duties and responsibilities of escrow and interplead rights of escrow agent.

SECTION SEVENTEEN: REAL ESTATE FINANCING PRINCIPLES

I. MORTGAGE CONCEPTS

- A. Describe the concept of mortgage lending.
 - 1) Qualifying the buyer
 - (a) Applicant information
 - (b) Income and employment verification
 - (c) Down payment information
 - (d) Credit information
 - (e) FHLMC qualifying guidelines
 - 2) Qualifying the property
 - (a) Single family homes
 - (b) Condominiums
 - (c) Stigmatized properties
 - 3) The loan application and escrow
 - 4) Approval of the loan
 - 5) Servicing the debt
- B. List and describe the major sources of residential funds for loans on mortgages
- C. Define basic real estate finance terms or concepts.
 - 1) Acceleration clause
 - 2) Alienation clause
 - 3) Amortization/negative amortization
 - 4) Assignment
 - 5) Assumption
 - 6) Balloon payment
 - 7) Beneficiary
 - 8) Conventional loan
 - 9) Deed of trust
 - 10) Defeasance clause
 - 11) Deficiency judgment
 - 12) Discount points
 - 13) Due on sale clause
 - 14) Escalation
 - 15) Financing instrument
 - 16) FHA insured mortgage
 - 17) Grantor
 - 18) Guaranteed loan
 - 19) Hypothecate
 - 20) Insured loan
 - 21) Late charges
 - 22) Mortgage
 - 23) Mortgagor/mortgagee
 - 24) Non-recourse loans (Hawaii is a recourse state)
 - 25) Note
 - 26) Prepayment penalty
 - 27) Redemption
 - 28) Reinstatement
 - 29) Reserves (ability to collect)
 - 30) Satisfaction
 - 31) Security instrument

- 32) Subordination
- 33) Trustee
- 34) VA guaranteed mortgage
- D. Government Loans. Discuss them and Compare and contrast VA and FHA loans.
- E. Help understand the purpose of different mortgage instruments.
 - 1) Satisfaction of mortgage
 - 2) Extension of mortgage
 - 3) Assignment of mortgage
 - 4) Release of mortgage
 - 5) Subordination of mortgage
 - 6) Certificate of reduction of mortgage
 - 7) Estoppel certificate/Lease estoppel certificate
 - 8) Mortgage consolidation agreement
 - 9) Mortgage spreading agreement
 - 10) Collateral bond
- F. Describe the difference between a mortgage, a deed of trust, and an agreement of sale.
- G. Help understand basic lending regulations and laws.
 - 1) Truth-In-Lending Act (Regulation Z) – understand the three disclosures that must be made.
 - 2) Real Estate Settlement Procedures Act (RESPA) – understand disclosures required and prohibited practices.
 - 3) Usury laws
 - 4) Equal Credit Opportunity Act (Community Reinvestment)
 - 5) Federal Flood Insurance Program
- H. Explain the provisions of the mortgage document or trust deed.
- I. Define foreclosure.
 - 1) Mortgages
 - (a) Judicial
 - (b) Non-judicial
 - 2) Agreements of Sale
 - 3) Land Contracts
 - 4) Redemption
 - (a) Equity of redemption
 - (b) Statutory redemption
- J. Explain procedures and effects of the “assumption” of an existing mortgage and the purchase “subject to” existing mortgage.

SECTION EIGHTEEN: REAL ESTATE FINANCING PRACTICES

I. REAL ESTATE FINANCING

- A. Help understand the trade-off among basic financing variables.
 - 1) Loan-to-value ratio (LTV)
 - 2) Interest rate (i)
 - 3) Term (n)
 - 4) Amortization (pmt)
- B. Be able to describe the financing differences of conventional, FHA, and VA loans.
- C. Primary and secondary mortgage market
- D. Understand why “points” are charged and how to calculate these.
 - 1) MIP
 - 2) PMI
 - 3) Discount points
- E. Help understand how to qualify borrowers for different types of loans.
- F. Help understand fixed rate mortgages.
- G. Help understand how a “lock-in” is used.

- H. Understand different types of adjustable rate mortgages and what financial terms need to be evaluated including how an ARM can be converted to a fixed rate mortgage.
- I. Help understand graduated payment mortgages (GPM)
- J. Help understand how participation mortgages work.
 - 1) Shared appreciation mortgage
 - 2) Share equity mortgage
- K. Second mortgages
 - 1) Wrap-around mortgage
 - 2) Agreements of sale
- L. Other mortgages – briefly discuss and describe alternative types of mortgages.
 - 1) RAM
 - 2) GEM
 - 3) Construction/Takeout
 - 4) Bridge loan
 - 5) Hawaii specific loans
 - (a) Ginnie Mae (GNMA)
 - (b) Hula Mae
 - (c) Employee Retirement System (ERS) Mortgage Loans

SECTION NINETEEN: PROPERTY MANAGEMENT

- I. DISCUSS RESIDENTIAL PROPERTY MANAGEMENT.
- II. DIFFERENTIATE BETWEEN RESIDENTIAL AND COMMERCIAL MANAGEMENT.

SECTION TWENTY: COMMERCIAL REAL ESTATE MANAGEMENT, LEASING & SALES

- I. REAL ESTATE PROPERTY MANAGEMENT AND LEASING
 - A. Licensing requirements
 - B. Define the purpose of property management.
 - C. Explain the relationship between the owner and the property manager.
 - D. Explain the relationship between the property manager and the tenant.
 - E. Differentiate between the role of property manager and leasing agent.
 - F. Explain the role and typical responsibilities of the property manager.
 - 1) Collection of rents
 - 2) Maintenance of property
 - 3) Handling of funds
 - 4) Insurance coverage:
 - (a) Worker's Compensation
 - (b) Fire
 - (c) Liability
 - (d) Casualty
 - (e) Consequential loss
 - G. Association Management
 - H. Identify and describe types of leases.
 - 1) Fixed lease
 - 2) Graduated lease
 - 3) Ground lease
 - 4) Net lease
 - 5) Percentage lease
 - I. Explain the difference between assignment, sublease, and novation.
 - J. Define "implied covenant of quiet enjoyment."
 - K. Describe the principles of the recordation of the lease.
 - L. Marketing/merchandising property

- 1) advertising
- 2) market conditions
- 3) negotiating lease on behalf of owner-client
- 4) handling of concessions
- M. Accounting and handling of funds
 - 1) maintenance of detailed records
 - 2) periodic reports
 - 3) taxes and insurance
 - 4) separate trust accounts
 - 5) collections of rent – policies and procedures
 - 6) collection of delinquencies
 - 7) security deposits
- N. Management agreement – content and negotiation
 - 1) terms of agreement
 - 2) compensation
 - 3) responsibilities
 - 4) property description – including full awareness of condominium, cooperative, right to use or rental income property
- O. Commercial Sales Contract is generally a different contract than the DROA.

SECTION TWENTY-ONE: LEASES IN RESIDENTIAL REAL ESTATE

- I. HAWAII ASSOCIATION OF REALTORS® STANDARD RENTAL AGREEMENT
 - A. Discuss the HAR standard form. Note key elements.
 - B. Lead paint and other disclosures are required – discuss.
- II. HAWAII ASSOCIATION OF REALTORS® PROPERTY CONDITION FORM
 - A. Should be included with the rental agreement when the tenant takes possession – discuss importance.

SECTION TWENTY-TWO: LANDLORD/TENANT CODE

- I. RESIDENTIAL LANDLORD/TENANT CODE (HRS 521)
 - A. Define lease as both a conveyance and a contract.
 - B. Understand how HRS 521 creates rights and obligations in residential leases.
 - 1) Define “Tenant” and describe tenant’s responsibilities under HRS 521.
 - 2) Define “Landlord” and describe landlord’s responsibilities under HRS 521.
 - C. Compare the four types of leasehold tenancies.
 - 1) Tenancy for years
 - 2) Tenancy from period to period
 - 3) Tenancy at will
 - 4) Tenancy at sufferance
 - 5) Understand rules in Hawaii Rental agreements -- oral or written.
 - (a) Written tenancy (month-to-month)
 - (b) Lease (fixed length)
 - D. Describe basic provisions in a residential rental agreement.
 - 1) Payment of rent
 - 2) Notice of rent increase
 - 3) Notice of termination
 - 4) Repairs
 - 5) Security deposits
 - E. Tenant remedies
 - F. Explain ways in which a lease agreement may be terminated.

- 1) Discuss actual vs. constructive eviction
- G. Note that many areas are not covered by the Residential Landlord/Tenant Code; i.e. definition of "agent."
- H. Discuss role of small claims court in landlord/tenant disputes and security deposit issues.
- I. Required disclosures in residential rental properties
- J. In sale of property, DROA does not provide for holdover of seller at closing. Discuss seller holdover or late occupancy.

SECTION TWENTY-THREE: REAL ESTATE VALUATION AND APPRAISAL

I. REAL ESTATE VALUATION

- A. Define Value.
- B. Describe different concepts of value.
 - 1) Note that appraisal values will have a tendency to "lag" the market.
- C. Explain the difference between market value, market price and cost.
- D. Explain the basic principles of value.
- E. Explain the concept of "highest and best use."
- F. Define the three approaches to value and give examples of the general use of each.
 - 1) Market data approach
 - 2) Cost approach
 - 3) Income approach (including the gross rent multiplier)
- G. Explain the difference between reproduction cost and replacement cost.
- H. Explain the concepts of "contribution" and "substitution."
- I. Explain measurement techniques used in Hawaii.
- J. Define basic terminology (see listing contracts).
- K. Define the basic concepts of depreciation.
- L. Basic concepts of leasehold valuation
- M. Explain the federal and state license laws that regulate appraisers.
 - 1) Know that Hawaii complies with the requirements of the Financial Institutions Reform Recovery and Enforcement Act of 1989 (FIRREA) which mandates state licensing and certification of appraisers.
 - 2) Explain the difference between state licensed appraisers and state certified appraisers.
 - 3) Know that brokers may give opinions of value if they do not call these "appraisals" and do not charge a fee.
 - 4) Know that licensed and certified appraisers must comply with the "Uniform Standards of Professional Practice" (USPAP).
- N. Professional Appraisal Organizations and designations
 - 1) Appraisal Institute – AI
 - (a) Primary organization.
 - 2) American Society of Appraisers – ASA
 - (a) Smaller, mostly rural and farm oriented.
 - 3) Other
- O. Valuation of Leaseholds
- P. Appraising leaseholds in Hawaii
 - 1) Lessee value
 - 2) Lessor value
 - 3) Leased Fee Differential-- describe how it changes over time.
- Q. Analysis and interpretation of market information (to determine listing price of real estate for sale, rent, or exchange, with and without an appraisal report)
- R. Styles of Homes-- describe commonly used terms for architectural styles.

SECTION TWENTY-FOUR: STATE LAND USE CONTROLS & PROPERTY DEVELOPMENT

I. LAND USE CONTROLS

- A. Describe Hawaii's land use classification system and the role of the state and the county governments.
 - 1) Discuss role of State Land Use Commission and Department of Land and Natural Resources
 - (a) Four categories of land use
 - 2) Discuss role of County:
 - (a) Planning Commission
 - (b) Department of Planning
 - (c) Building Department
 - (d) Others
 - (e) Discuss county-by-county issues of which brokers must be aware.
- B. Identify land use controls utilized in Hawaii.
 - 1) Police Power
 - (a) Planning (state and county)
 - (1) Purposes
 - (a) Development
 - (b) Implementation
 - (b) Zoning
 - (1) Purpose and definition
 - (2) Legal processes (include implication of state classifications.)
 - (3) Special conditions
 - (a) Variance
 - (b) Special Use Permit
 - (c) Existing use permits
 - (d) Zoning Changes
 - (e) Non-conforming use
 - (f) Spot Zoning
 - (g) Ohana Dwelling Laws
 - 2) Subdivision regulations
 - (a) Requirements for planning
 - (b) Uniform Land Sales Practices Act
 - (1) Describe broker's responsibilities.
 - 3) Building Regulation and Building codes
 - (a) Building Permits
 - (b) Final Inspections
 - (c) Certificate of Occupancy
 - (d) Code enforcement
 - 4) Eminent Domain
 - (a) Condemnation
 - (b) Adverse Possession
 - (c) Land Reform Act
 - (d) Process of Urban Renewal
 - 5) Taxation
 - 6) Escheat
- C. Describe Federal and State Environmental Regulations
 - 1) Federal Water Pollution Control Act (Wetlands)
 - 2) The Resource Conservation and Recovery Act of 1976 (hazardous waste management)
 - 3) Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA or "superfund")
 - 4) Discuss impact of Special Management Area (SMA); SMA permits; SMA rezoning.
 - 5) Discuss contested case hearings and negative declarations.
- D. Define and give examples of private land use controls through deed restrictions, subdivision regulations, and Covenants, Conditions and Restrictions (CC&R'S).
- E. Define and give examples of direct public ownership of land.
- F. Land Use Initiatives

SECTION TWENTY-FIVE: FAIR HOUSING LAWS AND THE AMERICANS WITH DISABILITIES ACT

I. FAIR HOUSING AND CONSUMER PROTECTION

- A. Describe the purpose of the Civil Rights Act of 1866.
- B. Describe the purpose of Executive Order No. 11063.
- C. Describe the purpose of the Civil Rights Act of 1964.
- D. Describe the Purpose of the Fair Housing Act of 1968.
- E. Describe the purpose of the Fair Housing Act Amendment of 1988.
- F. Describe the Purpose of HRS 515- discrimination in real property transactions.
 - 1) Enforcement of HRS 515
- G. Define and give examples of blockbusting and steering.
- H. Define and give examples of “redlining”.
- I. Describe exemptions of the Fair Housing Laws.
 - 1) When are fair housing laws applicable and when are they not?
- J. Identify the state and federal agencies responsible for the enforcement of the Fair Housing Laws.
- K. Describe the penalties for those who violate the Fair Housing Laws.
- L. Describe other rights provided to consumers in real estate transactions.
- M. Differentiate between federal and state fair housing guidelines. Include Hawaii’s protected classes.
- N. Discuss role of Hawaii Civil Rights Commission and HUD with respect to fair housing laws in Hawaii.
- O. Americans with Disabilities Act

SECTION TWENTY-SIX: ENVIRONMENTAL ISSUES AND THE REAL ESTATE TRANSACTION

I. LAND USE LAWS (See also “Land Use Controls”)

- A. Discuss:
 - 1) Environmental Impact Statements
 - (a) Content of EIS
 - 2) Environmental Laws (1982 Comprehensive Environmental Response, Compensation and Liability Act [CERCLA]) and the Clean Water Act. Include the purchaser’s prudent conduct of due diligence because of the impact of these laws.
 - 3) Environmental Site Assessments: Level I, II, III and general content and severity

II. OTHER ENVIRONMENTAL ISSUES: Discuss and explain how they may impact a transaction.

SECTION TWENTY-SEVEN: REAL ESTATE MATHEMATICS

I. GENERAL MATHEMATICAL COMPUTATIONS

- A. Commission calculations and problems (including GET)
- B. Simple Interest and Declining Balance
- C. Calculation of profit or loss upon disposition of real estate
- D. Depreciation and Appreciation (with land and buildings depreciating or appreciating sometimes at differing rates)
- E. Property tax, conveyance tax calculations
- F. Pro-ration of expenses and costs among parties
- G. Area calculation for regular and irregular shapes (houses or lots) but not curvilinear shapes

II. CLOSING OR SETTLEMENT STATEMENTS

- A. Escrow Cash account
- B. Buyer’s Closing Statement

C. Seller's Closing Statement

III. OTHER CALCULATIONS

- A. Comparative Market Analysis
- B. Seller's net sheet
- C. Estimate of approximate closing costs
- D. Mortgage calculations
- E. interest deductions and declining balance
- F. installment sales contract (tax implications)
- G. owner-occupant
 - 1) deductions upon acquisition
 - 2) deductions during ownership
 - (a) points
 - (b) interest
 - (c) taxes
 - 3) deductions upon disposition capital gain/loss treatment
- H. Investor
 - 1) Deductions during ownership
 - (a) Interest
 - (b) Depreciation
 - 2) Deduction upon disposition capital gain/loss treatment

APPENDIX ONE: SUMMARY OF ESTIMATED CLASSROOM HOURS

SECTION	SUBJECT	HOURS
1	Introduction and Background	2
2	Real Estate Licensing Laws.....	5
3	Nature and Description of Real Estate.....	2
4	The Law and Real Property	2
5	Encumbrances and Liens, Easements.....	3
6	Real Estate and Other Taxes, Tax Liens	4
7	Tenancy and Ownership of Real Estate	3.5
8	Condominiums, Cooperatives, Planned Unit Developments and Timeshare.....	4
9	Interests in Real Estate	2
10	Real Estate Brokerage Administration.....	8
11	Agency.....	4
12	Listing Agreements and Buyer Representation	1
13	Standard of Ethical Practice in Real Estate.....	2
14	Real Estate Contracts.....	3
15	Hawaii Standard Forms	7
16	Closing the Real Estate Transaction.....	6
17	Real Estate Financing Principles.....	2
18	Real Estate Financing Practices	2
19	Property Management5
20	Commercial Real Estate Management, Leasing and Sales	2
21	Leases in Residential Real Estate	1.5
22	Landlord/Tenant Code	2.5
23	Real Estate Valuation and Appraisal	4
24	State Land Use Controls and Property Development.....	3
25	Fair Housing Laws and The Americans With Disabilities Act	2
26	Environmental Issues and the Real Estate Transaction.....	.5
27	Real Estate Mathematics	3
TOTAL ESTIMATED CLASSROOM HOURS		80